

## REMARKS/ARGUMENTS

Claims 1-9, 12-16, 28-40 and 42-45 are pending in the present application. The Examiner has rejected claims 1-9, 12-26, 28-40, and 42-45. Applicant respectfully requests reconsideration of pending claims 1-9, 12-16, 28-40 and 42-45.

The Examiner has rejected claim 45 under 35 U.S.C § 112, first paragraph as failing to comply with the written description requirement. Thus, Applicant submits the pending claims are in condition for allowance.

The Examiner has rejected claims 23-25, 30, 31, 33 and 35 under 35 U.S.C. § 102 as allegedly being anticipated by Srinivasan, et al. (U.S. Patent No. 6,304,549). Applicant respectfully disagrees.

Regarding claim 23, in the last Office action, the Examiner stated claim 27 was "objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In Applicant's response, Applicant amended claim 23 and canceled claim 27. Now, however, contrary to the Examiner's previous statements, in reliance only on previously cited references, the Examiner rejects claim 23. Applicant notes MPEP § 706.04 states as follows:

### 706.04 Rejection of Previously Allowed Claims [R-1]

A claim noted as allowable shall thereafter be rejected only after the proposed rejection has been submitted to the primary examiner for consideration of all the facts and approval of the proposed action.

Great care should be exercised in authorizing such a rejection. See *Ex parte Grier*, 1923 C.D. 27, 309 O.G. 223 (Comm'r Pat. 1923); *Ex parte Hay*, 1909 C.D. 18, 139 O.G. 197 (Comm'r Pat. 1909).

While the Examiner previously stated claim 27 was in condition for allowance, the Examiner now cites "(Column 16 Line 58-66)" of the Srinivasan reference as allegedly disclosing "...wherein the diagnostic traffic includes operation and management (OAM) performance monitoring traffic."

Applicant submits the cited portion of the cited reference fails to disclose or suggest the subject matter of claim 23. As one example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "wherein the diagnostic traffic verifies that a level of user plane performance that has been guaranteed to a user is being provided." Thus, Applicant submits claims 23 is in condition for allowance.

Regarding claim 24, Applicant notes the Examiner cites "(Column 5 Line 2-8)" of the Srinivasan reference as allegedly disclosing "wherein the data stream includes a plurality of asynchronous transfer mode (ATM) cells." However, Applicant submits "(Column 5 line 2-8)" merely mentions "the ATM Forum's PNNI routing protocol" and "The PNNI routing protocol such as described in The ATM Forum, *Private Network-Network Specification Interface vl.* 0. Mar. 1996." Thus, Applicant submits the cited portion of the cited reference fails to disclose the subject matter of claim 24. Therefore, Applicant submits claims 24 is in condition for allowance.

Regarding claim 25, Applicant notes the Examiner cites "(Column 16 Line 58-66)" of the Srinivasan reference as allegedly disclosing "wherein the diagnostic traffic includes operation and management (OAM) continuity checking traffic." However, Applicant notes "(Column 16 Line 58-66)" merely mentions "...link failures, which may be both intermittent and permanent, may be detected by Operation and Maintenance (OAM) functions executed at different levels of the network hierarchy, namely, the physical layer OAM, ATM VP and VC layer OAM." Applicant submits a mere reference to "Operation and Maintenance (OAM) functions" does not disclose "wherein the diagnostic traffic includes operation and management (OAM) continuity checking traffic." Thus, Applicant submits claims 25 is in condition for allowance.

Regarding claim 30, Applicant notes the Examiner cites "(Column 2 Line 32)" of the Srinivasan reference as allegedly disclosing "wherein the first and second connections are soft permanent virtual circuits." However, Applicant notes "(Column 2 Line 32)" of the Srinivasan reference recites "Soft Provisioned Virtual Circuits (SPVCs)." Thus, Applicant submits claims 30 is in condition for allowance.

Regarding claim 31, Applicant notes the Examiner cites "(Figure 1)" of the Srinivasan reference as allegedly disclosing "wherein the first and second connections are switched connections." However, Applicant notes "(Figure 1)" of the Srinivasan reference fails to disclose "...a destination node operably coupled to the source node via a first connection..." and "...a second connection that couples the source node and the destination node...", "...wherein the first and second connections are switched connections." Thus, Applicant submits claims 31 is in condition for allowance.

Regarding claim 33, Applicant notes the Examiner cites "(Column 17 Line 22-25)" of the Srinivasan reference as allegedly disclosing "wherein the control block establishes the second

connection as a part of a soft reroute." However, Applicant notes "(Column 17 Line 22-25)" of the Srinivasan reference merely states, "Additionally, as indicated at step 367, when a connection server CS determines that a link l has failed, it reroutes any VPCs that it is monitoring, which use this link, by returning to step 210, FIG. 7." However, Applicant submits such teaching fails to disclose " wherein the control block establishes the second connection as a part of a soft reroute." Thus, Applicant submits claims 33 is in condition for allowance.

Regarding claim 35, Applicant notes the Examiner cites "(Column 2 Line 57-61)" of the Srinivasan reference as allegedly disclosing "wherein the selected characteristic includes at least one of: data corruption on the first connection, data loss on the first connection, latency along the first connection, and misinsertion of data on the first connection." However, Applicant "(Column 2 Line 57-61)" of the Srinivasan reference states, "By way of background, VPCs are of two types: homogeneous, if they only support calls of a single traffic class, and heterogeneous, if they support multiple classes of traffic. As the underlying source model of cell arrival rates at a network connection has been shown to be reasonably...." Applicant submits such teaching fails to disclose "wherein the selected characteristic includes at least one of: data corruption on the first connection, data loss on the first connection, latency along the first connection, and misinsertion of data on the first connection." Thus, Applicant submits claims 35 is in condition for allowance.

The Examiner has rejected claims 1-9, 12-15, 17-22, 26, 28, 29, and 36-40 as allegedly being unpatentable over Srinivasan, et al. (U.S. Patent No. 6,304,549) in view of Cedrone, et al. (U.S. Patent No. 6,538,987). Applicant respectfully disagrees.

Regarding claim 1, Applicant submits the cited portions of the cited references fail to render obvious the subject matter recited in claim 1. As one example, Applicant submits the cited portions of the cited references fail to disclose or suggest "...wherein the connection is managed by a control plane." While the Examiner cites "105, 200 (Column 7 Line 32-41)" of the Srinivasan reference, Applicant submits elements 105 and 200 of Figure 6 and "(Column 7 Line 32-41)" fail to disclose "...wherein the connection is managed by a control plane."

As another example, Applicant submits the cited portions of the cited references fail to disclose or suggest "monitoring status of a selected characteristic of the connection using a user connection monitoring function." While the Examiner cites "315," the only references Applicant can find to "315"

are "any link/node additions/failure?" in Figure 6 and "...DIVA 101 provides a manner for accomplishing changes to VPC configurations in reaction to link and node (a) failures, and (b) additions and restorals, as indicated at steps 315 and 325" in column 7, lines 51-54, of the Srinivasan reference. However, Applicant submits such teachings do not disclose "...using a user connection monitoring function."

As yet another example, Applicant submits the cited portions of the cited references fail to disclose or suggest "when the status of the selected characteristic is determined to be unacceptable, initiating control plane rerouting of the connection." While the Examiner cites "(Column 17 Line 22-25)" of the Srinivasan reference, Applicant submits "(Column 17 Line 22-25)" merely states, "Additionally, as indicated at step 367, when a connection server CS determines that a link l has failed, it reroutes any VPCs that it is monitoring, which use this link, by returning to step 210, FIG. 7." Applicant submits such teaching fails to disclose "initiating control plane rerouting of the connection."

Furthermore, the Examiner acknowledges that the Srinivasan reference fails to disclose detecting a loss of continuity for a predetermined time period. The Examiner cites "(Column 8 Line 39-47)" of the Cedrone reference as allegedly disclosing such feature. However, Applicant notes column 8, lines 63-65, of the Cedrone reference state, "Instead of using a dedicated virtual path, the source node may instead send the Continuity OAM cells over dedicated virtual circuits in one or more of its virtual paths." Applicant submits such teaching teaches away from "...using a user connection monitoring function." Therefore, Applicant submits it would not have been obvious to combine the alleged teachings of the Srinivasan reference with the alleged teachings of the Cedrone reference and that the subject matter of claim 1 is not a predictable variation of the alleged teachings of the cited references. Thus, Applicant submits claim 1 is in condition for allowance.

Regarding claim 2, Applicant has presented arguments for the allowability of claim 1, from which claim 2 depends. Thus, Applicant submits claim 2 is also in condition for allowance.

Regarding claim 3, Applicant submits the cited portion of the cited reference fails to disclose or suggest the subject matter of claim 3. As one example, Applicant submits the cited portion of the cited reference fails to disclose "wherein the selected characteristic includes at least one of: data corruption on the connection, data loss on the connection, latency along the connection, and misinsertion of data on the connection." While the Examiner cites "(Column 2 Line 57-61)," Applicant notes "(Column 2

Line 57-61)" states, "Dynamic management of VPC routes and resource allocations can be done by continuously monitoring the network and reacting to repeated congestion patterns, and topological changes caused by failures and additions of network elements such as links and nodes." Applicant submits the teachings of "(Column 2 Line 57-61)" differ from the subject matter of claim 3. Thus, Applicant submits claim 3 is in condition for allowance.

Regarding claim 4, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 4. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the data communication network supports asynchronous transfer mode (ATM) protocol." While the Examiner cites "(Column 5 Line 2-8)," Applicant submits "(Column 5 Line 2-8)" merely mentions "the ATM Forum's PNNI routing protocol" and "The PNNI routing protocol such as described in The ATM Forum, *Private Network-Network Specification Interface vl. 0*. Mar. 1996." Thus, Applicant submits the cited portion of the cited reference fails to disclose the subject matter of claim 4. Therefore, Applicant submits claim 4 is in condition for allowance.

Regarding claim 5, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 5. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the control plane is a signaling plane." While the Examiner cites "(Column 5 Line 43 – Column 6 Line 12, see Figure 3)," Applicant notes the cited portion of the cited reference merely mentions the word "signaling" in the context of "the PNNI signaling protocol" and "UNI and PNNI signaling," but does not disclose or suggest "wherein the control plane is a signaling plane." Thus, Applicant submits claim 5 is in condition for allowance.

Regarding claim 6, Applicant has presented arguments for the allowability of claim 5, from which claim 6 depends. Thus, Applicant submits claim 6 is also in condition for allowance.

Regarding claim 7, Applicant submits the cited portions of the cited references fail to disclose or suggest the subject matter of claim 7. As one example, Applicant submits the cited portions of the cited references fail to disclose or suggest "wherein the connection is a soft permanent virtual connection (SPVC)." While the Examiner cites "(Column 2 Line 32)," Applicant submits the cited portion of the cited reference teaches away from the subject matter of claim 7. For example, column 2, lines 32-33, of the Srinivasan reference state, "This method inherently possesses two drawbacks...."

As described in column 3, lines 28-31, of the Srinivasan reference, the teachings of Srinivasan the Examiner cites with respect to claims from which claim 7 depends are intended to address "the drawbacks and shortcomings of existing dynamic VPC bandwidth management methods." Accordingly, Applicant submits the teachings of the Srinivasan reference teach away from "wherein the connection is a soft permanent virtual connection (SPVC)." Thus, Applicant submits claim 7 is in condition for allowance.

Regarding claim 8, Applicant submits the cited portions of the cited reference fails to disclose or suggest the subject matter of claim 8. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the connection is a switched connection." While the Examiner cites "(Figure 1)," Applicant notes the Srinivasan reference describes "FIG. 1" in column 1, lines 37 and 38, in the context of existing dynamic VPC bandwidth management methods. However, as described in column 3, lines 28-31, of the Srinivasan reference, the teachings of Srinivasan the Examiner cites with respect to claims from which claim 8 depends are intended to address "the drawbacks and shortcomings of existing dynamic VPC bandwidth management methods." Accordingly, Applicant submits the teachings of the Srinivasan reference teach away from "wherein the connection is a switched connection." Thus, Applicant submits claim 8 is also in condition for allowance.

Regarding claim 9, Applicant has presented arguments for the allowability of claims from which claim 9 depends. Thus, Applicant submits claim 9 is also in condition for allowance.

Regarding claim 12, Applicant has presented arguments for the allowability of claims from which claim 12 depends. Thus, Applicant submits claim 12 is also in condition for allowance.

Regarding claim 13, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 13. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein determining that the status of the selected characteristic is unacceptable further comprises determining that a property of the selected characteristic exceeds a predetermined threshold." While the Examiner cites "(Column 8 Line 39-47) of the Cedrone reference," Applicant notes such portion merely recites, "The node processor 42 keeps track of the number of Continuity OAM cells received from each of the source nodes over prescribed time periods, or windows, to determine if the paths to the node over the primary and secondary rings

are in working order (step 400). Each destination node determines if it should initiate protection switching based on the number of Continuity OAM cells received from the source node over both the selected and the non-selected routes." Applicant sees no teaching as to "a predetermined threshold." Thus, Applicant submits claim 13 is also in condition for allowance.

Regarding claim 14, Applicant submits the cited portions of the cited references fail to disclose or suggest the subject matter of claim 14. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the selected characteristic further comprises a plurality of selected characteristics, wherein each selected characteristic of the plurality of selected characteristics has a corresponding predetermined threshold, wherein determining that the status of the selected characteristic is unacceptable includes determining that a property corresponding to at least one selected characteristic of the plurality of selected characteristics exceeds the corresponding predetermined threshold for the at least one selected characteristics." While the Examiner cites "(Column 8 Line 39-47)" of the Cedrone reference as allegedly disclosing such feature, Applicant notes such portion of the cited reference states "Each destination node determines if it should initiate protection switching based on the number of Continuity OAM cells received from the source node over both the selected and the non-selected routes." Applicant submits "...the number of Continuity OAM cells received..." is expressed in singular, not plural, form. Thus, Applicant submits "...the number of Continuity OAM cells received..." cannot be construed to disclose "...the plurality of selected characteristics..." Therefore, Applicant submits claim 14 is in condition for allowance.

Regarding claim 15, Applicant submits the cited portions of the cited references fail to disclose or suggest the subject matter of claim 15. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein at least a portion of the corresponding predetermined thresholds for the plurality of selected characteristics is configurable." While the Examiner cites "(Column 8 Line 39-47)," Applicant notes such portion of the cited reference states "Each destination node determines if it should initiate protection switching based on the number of Continuity OAM cells received from the source node over both the selected and the non-selected routes." Applicant submits "...the number of Continuity OAM cells received..." is not described as being "...configurable." Thus, Applicant submits "...the number of Continuity OAM cells received..." cannot be construed to disclose "wherein at least a portion of the corresponding

predetermined thresholds for the plurality of selected characteristics is configurable." Therefore, Applicant submits claim 15 is also in condition for allowance.

Regarding claim 17, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 17. As one example, Applicant submits the cited portions of the cited references fail to disclose or suggest "wherein initiating control plane rerouting of the connection further comprises initiating a soft reroute." While the Examiner cites "(Column 17 Line 22-25)" of the Srinivasan reference, Applicant submits the cited portion of the cited reference states, "Additionally, as indicated at step 367, when a connection server CS determines that a link l has failed, it reroutes any VPCs that it is monitoring, which use this link, by returning to step 210, FIG. 7." Since the cited portion merely states, "...it reroutes any VPCs...", Applicant submits the cited portion fails to disclose "wherein initiating control plane rerouting of the connection further comprises initiating a soft reroute," as no reference to "...control plane rerouting..." or "...a soft reroute" is found in the cited portion. Thus, Applicant submits claim 17 is also in condition for allowance.

Regarding claims 18-20, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the data communication network supports Multi-Protocol Label Switching (MPLS)." As another example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the control plane includes at least one of Label Distribution Protocol (LDP) and ReSerVation Protocol (RSVP)." As yet another example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the connection is a Label Switched Path (LSP)." While the Examiner states, "Srinivasan in view of Cedrone does not teach the specific protocols," the Examiner also states, "It would have been obvious to one skilled in the art to modify Srinivasan in view of Cedrone to be used with MPLS, LDP or RSVP and LSP in order to adapted to specific network." Applicant respectfully disagrees. Applicant submits the Examiner does not cite any reference as disclosing or suggesting "MPLS, LDP or RSVP and LSP." Accordingly, Applicant submits the Examiner has not established any basis in the prior art upon which "one skilled in the art" would allegedly "modify Srinivasan in view of Cedrone." Thus, Applicant submits the Examiner has not established a *prima facie* showing of obviousness. Therefore, Applicant submits claims 18-20 are in condition for allowance.

Regarding claim 21, Applicant submits the cited portions of the cited references fail to disclose or suggest the subject matter of claim 21. Applicant has presented arguments for the allowability of



claims from which claim 21 depends. Thus, Applicant submits claim 21 is also in condition for allowance.

Regarding claim 22, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 22. Applicant has submitted arguments for the allowability of claims from which claim 22 depends. Thus, Applicant submits claim 22 is also in condition for allowance.

Regarding claim 26, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 26. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the status of the selected characteristic is determined to be unacceptable when loss of continuity is detected for a time period that exceeds a predetermined threshold." While the Examiner cites "(Column 8 Line 39-47)" of the Cedrone reference, Applicant submits such teaching fails to disclose or suggest such feature. As one example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "...that exceeds a predetermined threshold." Thus, Applicant submits claim 26 is also in condition for allowance.

Regarding claim 28, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 28. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the status of the selected characteristic is determined to be unacceptable when a property associated with OAM performance monitoring exceeds a predetermined threshold." While the Examiner cites "(Column 8 Line 39-47)" of the Cedrone reference, Applicant submits such teaching fails to disclose or suggest such feature. As one example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "...exceeds a predetermined threshold." Thus, Applicant submits claim 28 is also in condition for allowance.

Regarding claim 29, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 29. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the predetermined threshold is configurable." While the Examiner cites "(Column 8 Line 39-47)" of the Cedrone reference, Applicant notes such portion of the cited reference states "Each destination node determines if it should initiate protection switching based on the number of Continuity OAM cells received from the source node over both the selected and the non-selected routes." Applicant submits "...the number of Continuity OAM cells

received..." is not described as being "...configurable." Thus, Applicant submits "...the number of Continuity OAM cells received..." cannot be construed to disclose "wherein the predetermined threshold is configurable." Thus, Applicant submits claim 29 is also in condition for allowance.

Regarding claim 36, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 36. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "when status of the at least one characteristic is determined to be unacceptable, initiating control plane rerouting of the connection, wherein the OAM traffic comprises OAM continuity checking traffic, wherein the at least one characteristic includes continuity, wherein status of the continuity is determined to be unacceptable when a lack of continuity is detected for a time period that exceeds a configurable threshold." While the Examiner cites "(Column 8 Line 39-47)" of the Cedrone reference, Applicant submits such teaching fails to disclose or suggest such feature. As one example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "...exceeds a configurable threshold." Thus, Applicant submits claim 36 is also in condition for allowance.

Regarding claim 37, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 37. While the Examiner cites "(Column 2 Line 32)," Applicant submits the cited portion of the cited reference teaches away from the subject matter of claim 37. For example, column 2, lines 32-33, of the Srinivasan reference state, "This method inherently possesses two drawbacks...." As described in column 3, lines 28-31, of the Srinivasan reference, the teachings of Srinivasan the Examiner cites with respect to claims from which claim 37 depends are intended to address "the drawbacks and shortcomings of existing dynamic VPC bandwidth management methods." Accordingly, Applicant submits the teachings of the Srinivasan reference teach away from "wherein the connection is a soft permanent virtual connection (SPVC)." Thus, Applicant submits claim 37 is also in condition for allowance.

Regarding claim 38, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 38. Applicant has presented arguments for the allowability of claim 36, from which claim 38 depends. Thus, Applicant submits claim 38 is also in condition for allowance.

Regarding claim 39, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 39. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the control plane is a signaling plane." While the Examiner cites "(Column 5 Line 43 – Column 6 Line 12, see Figure 3)" of the Srinivasan reference, Applicant submits such teaching fails to disclose or suggest such feature. As one example, Applicant submits the cited portion of the cited reference fails to mention "...the control plane...." As another example, Applicant submits the cited portion of the cited references fails to mention "...a signaling plane...." Thus, Applicant submits claim 39 is also in condition for allowance.

Regarding claim 40, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 40. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "wherein the signaling plane uses private network-to-network interface (PNNI)." While the Examiner states "Srinivasan teaches the signaling plane uses private network-to-network interface (PNNI) 56," Applicant submits such teaching fails to disclose or suggest such feature. As one example, while Applicant sees mention of "PNNI" in the Srinivasan reference, Applicant does not see teaching as to "wherein the signaling plane uses private network-to-network interface (PNNI)." Thus, Applicant submits claim 40 is also in condition for allowance.

The Examiner has rejected claim 16 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Srinivasan, et al. (U.S. Patent No. 6,304,549) in view of Cedrone, et al. (U.S. Patent No. 6,538,987) as applied to claim 1 above, and further in view of So (U.S. Patent No. 6,735,176). Applicant respectfully disagrees.

Regarding claim 16, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 16. Applicant has presented arguments for the allowability of claim 1, from which claim 16 depends. Thus, Applicant submits claim 16 is also in condition for allowance.

The Examiner has rejected claim 34 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Srinivasan, et al. (U.S. Patent No. 6,304,549)

Regarding claim 34, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 34. As one example, Applicant submits the cited portions of the

cited reference fail to disclose or suggest "wherein the data stream is a Multi-Protocol Label Switching (MPLS) data stream and wherein the first and second connections correspond to label switched paths." The Examiner states, "Srinivasan, however, does not teach the specific protocols" and further states, "It would have been obvious to one skilled in the art to modify Srinivasan in view of Cedrone to be used with MPLS and LSP in order to adapted to specific network." Applicant respectfully disagrees. Applicant submits the Examiner does not cite any reference as disclosing or suggesting "MPLS" or "label switched paths." Accordingly, Applicant submits the Examiner has not established any basis in the prior art upon which "one skilled in the art" would allegedly "modify Srinivasan in view of Cedrone." Thus, Applicant submits the Examiner has not established a *prima facie* showing of obviousness. Therefore, Applicant submits claim 34 is also in condition for allowance.

The Examiner has rejected claims 32 and 42-45 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Srinivasan, et al. (U.S. Patent No. 6,304,549) in view of So (U.S. Patent No. 6,735,176). Applicant respectfully disagrees.

Regarding claim 32, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 32. Applicant has presented arguments for the allowability of claim 23, from which claim 32 depends. Thus, Applicant submits claim 32 is also in condition for allowance.

Regarding claim 42, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 42. As one example, Applicant submits the cited portions of the cited reference fail to disclose or suggest "detecting a fault in the connection in the user plane." While the Examiner cites "user plane 315" of the Srinivasan reference, Applicant submits such teaching fails to disclose or suggest such feature. As one example, Applicant notes element 315 of the Srinivasan appears to be mentioned only in col. 7, lines 50-54, of the Srinivasan reference as "Additionally, as part of the monitoring process, DIVA 101 provides a manner for accomplishing changes to VPC configurations in reaction to link and node (a) failures, and (b) additions and restorals, as indicated at steps 315 and 325." Applicant submits such teaching fails to mention "detecting a fault in the connection in the user plane." Thus, Applicant submits claim 42 is in condition for allowance.

Regarding claim 43, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 43. As one example, Applicant submits the cited portions of the

cited reference fail to disclose or suggest "wherein detecting a fault further comprises detecting a fault using operation and management (OAM) services running within the user plane." While the Examiner cites "(Column 16 Line 58-62)" of the Srinivasan reference, Applicant submits such teaching fails to disclose or suggest such feature. As one example, Applicant submits the cited portion of the cited reference fails to disclose or suggest "...using operation and management (OAM) services running within the user plane." Thus, Applicant submits claim 43 is in condition for allowance.

Regarding claim 44, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 44. While the Examiner cites "(Column 2 Line 32)," Applicant submits the cited portion of the cited reference teaches away from the subject matter of claim 44. For example, column 2, lines 32-33, of the Srinivasan reference state, "This method inherently possesses two drawbacks...." As described in column 3, lines 28-31, of the Srinivasan reference, the teachings of Srinivasan the Examiner cites with respect to claims from which claim 44 depends are intended to address "the drawbacks and shortcomings of existing dynamic VPC bandwidth management methods." Accordingly, Applicant submits the teachings of the Srinivasan reference teach away from "wherein the connection is a soft permanent virtual connection (SPVC)." Thus, Applicant submits claim 44 is also in condition for allowance.

Regarding claim 45, Applicant submits the cited portions of the cited reference fail to disclose or suggest the subject matter of claim 45. As one example, Applicant submits the cited portions of the cited references fail to disclose or suggest "wherein triggering a reroute further comprises triggering a soft reroute." While the Examiner cites "(Column 17 Line 22-25)" of the Srinivasan reference, Applicant submits the cited portion of the cited reference states, "Additionally, as indicated at step 367, when a connection server CS determines that a link l has failed, it reroutes any VPCs that it is monitoring, which use this link, by returning to step 210, FIG. 7." Since the cited portion merely states, "...it reroutes any VPCs...", Applicant submits the cited portion fails to disclose "wherein triggering a reroute further comprises triggering a soft reroute," as no reference to "...a soft reroute" is found in the cited portion. Thus, Applicant submits claim 45 is also in condition for allowance.

In conclusion, Applicant has overcome all of the Office's rejections, and early notice of allowance to this effect is earnestly solicited. If, for any reason, the Office is unable to allow the Application on the next Office Action, and believes a telephone interview would be helpful, the Examiner is respectfully requested to contact the undersigned attorney.

Respectfully submitted,

03/05/2008

Date



Ross D. Snyder, Reg. No. 37,730  
Attorney for Applicant(s)  
Ross D. Snyder & Associates, Inc.  
PO Box 164075  
Austin, Texas 78716-4075  
(512) 347-9223 (phone)  
(512) 347-9224 (fax)